



# Mandatory Minimum Penalties

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## Water Code Violators Held Accountable Under MMP Law

In 1999, the California Legislature passed SB 709, which required that certain state Water Code violations be subject to mandatory minimum penalties (MMPs). This legislation changed the status quo, which had relied on the priorities and work loads of each of the Water Boards to determine enforcement actions and penalties. While the State Water Board and the Regional Water Quality Control Boards (collectively referred to as the California Water Boards) did begin assessing MMPs after the passage of the bill, a variety of factors led to a backlog of unresolved cases.



*The Water Boards penalize violators of the State Water Code.*

In 2006, the State Water Board established the Office of Enforcement to provide vigorous, statewide enforcement, and to improve the tracking and performance of the California Water Boards' enforcement program. The Office of Enforcement documented and reported on the MMP backlog in the California Water Boards' 2007 Enforcement Report noting that 7,880 violations, which had taken place between January 1, 2000 and December 31, 2007, had not received a penalty at or above the mandatory minimum amount.

The work of the Office of Enforcement led to development of a state-wide Initiative for MMP enforcement, with the goal of substantially reducing or eliminating the MMP backlog accumulated between Jan. 1, 2000 and Dec. 31, 2007. The target date established for reaching this goal was December 31, 2008.

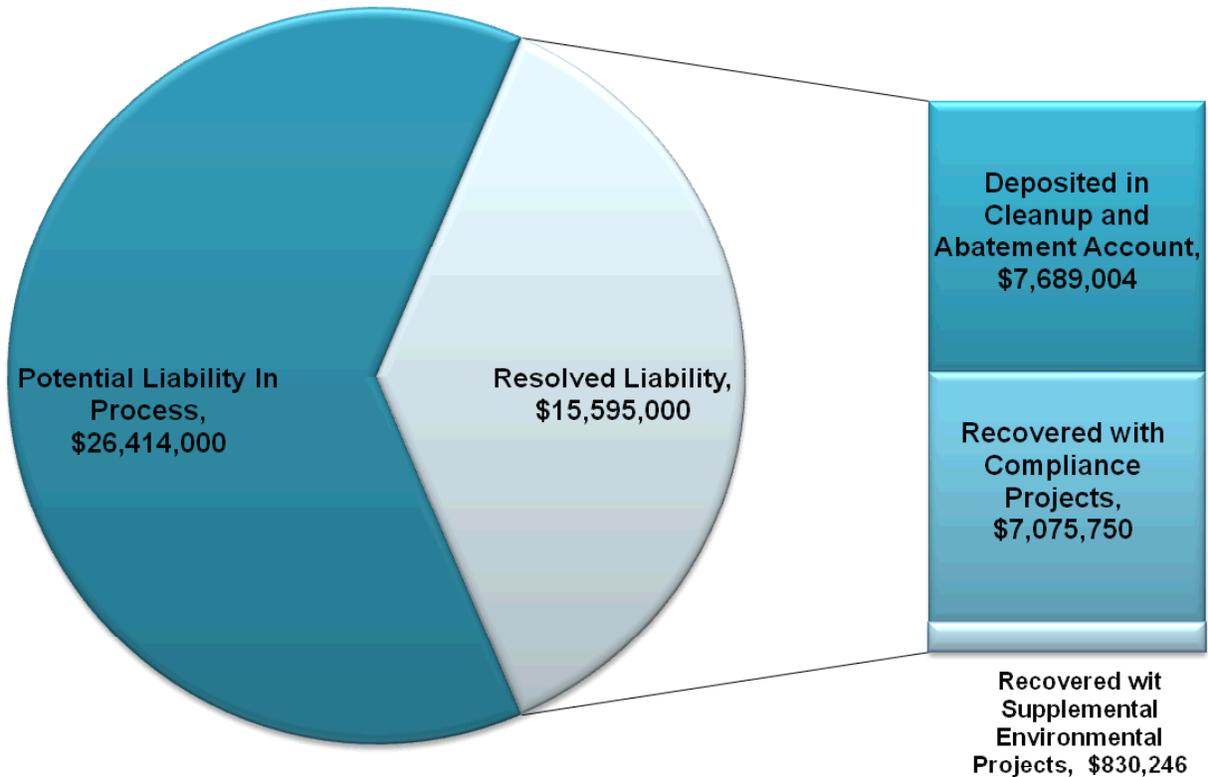
## Phased Approach Taken To Eliminating Backlog

Because of staff limitations, a phased approach was taken in which the Water Boards sent expedited payment letters to facilities believed to be in violation, offering them the option of resolving the violations by paying the penalties without contesting the finding. Water Board staff then followed up with the facilities that did not accept the expedited payment option through standard enforcement actions. State and Regional Board staff members worked together to reduce the MMP backlog, facilitated by a state-wide Coordinating Committee.

By March 31, 2009, the California Water Boards had significantly reduced the MMP backlog, and in some regions the backlog was completely eliminated. As of March 31, the California Water Boards had addressed close to 14,000 MMP violations from 455 facilities (many with multiple violations) in the state through notices of violation, expedited payment offers, or administrative civil liability complaints.

Those enforcement actions resulted in resolution of all violations at 228 facilities (about 50% of all involved facilities), with \$7.7 million in penalties paid into the Cleanup and Abatement Account. In addition, \$7.07 million in payments were made toward completion of compliance projects for facilities serving small communities with financial hardship, and \$830,246 in liabilities were suspended pending completion of supplemental environmental projects. Supplemental environmental projects are permitted by statute in lieu of payment of the MMP, and

### Mandatory Minimum Penalty Amounts 2000-2008, Potential and Resolved



consist of water quality improvement projects that the discharger is not otherwise required to perform. The California Water Boards have in process enforcement actions and strategies for resolving the remaining backlogged MMP violations. Those actions could generate an additional \$26 million in liabilities as part of the Initiative.

Along with targeting the backlog of MMPs, the Initiative has resulted in more accurate and complete recording of violations in the California Water Boards enforcement data base, which is available on-line to the public as part of the California Integrated Water Quality System (CIWQS) at [http://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/](http://www.waterboards.ca.gov/water_issues/programs/ciwqs/).

A report on the California Water Boards' MMP Initiative is available on-line at [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/mmpdraftreport.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/mmpdraftreport.pdf)

The California Water Boards' Annual Enforcement Report for 2007-2008 (published April 2009) is available at [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/annual\\_enf\\_rpt\\_032609.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/annual_enf_rpt_032609.pdf)